

CITY OF NEWPORT BEACH

City Council Minutes Study Session and Regular Meeting August 11, 2015

I. ROLL CALL - 4:17 p.m.

Present: Council Member Peotter, Council Member Petros, Council Member Curry, Council Member Duffield, Council Member Muldoon, Mayor Pro Tem Dixon, Mayor Selich

II. CURRENT BUSINESS

SS1. Clarification of Items on the Consent Calendar - None

SS2. Presentation to Steve Bender and Others Regarding the Host Town Efforts for the 2015 Special Olympics World Games [100-2015]

Mayor Selich read the proclamation and presented it to Steve Bender and the Newport Beach World Games Host Town Committee for their efforts and dedication during the recent 2015 Special Olympics World Games.

Steve Bender expressed appreciation to the City and Council for their support, as well as City staff and volunteers.

Recreation and Senior Services Director Detweiler thanked the Committee for their efforts.

Council Member Muldoon thanked Mr. Bender and the Committee for their hard work and dedication.

SS3. American Academy of Hospitality Science and Star Diamond Award [100-2015]

Karen Lynn Dixon and Joseph Cinque, representing the American Academy of Hospitality Science, presented the City with a Five-Star Diamond Award honoring its excellence in hospitality services.

Mayor Selich reported that he and Council Member Curry attended the luncheon where the award was initially presented. He thanked the Academy and Visit Newport Beach (VNB) for their work in promoting the City.

Council Member Curry thanked the Academy for recognizing the City and the hospitality industry, such as VNB.

Karen Lynn Dixon added that the Balboa Bay Beach Club and The Winery were honored today, as well.

SS4. Annual Presentation by Visit Newport Beach/Newport Beach and Company (C-4961) [38/100-2015]

Council Member Duffield recused himself from this item since he does business with Visit Newport Beach/Newport Beach and Company.

Andy Theodorou, Vice President and General Manager of Newport Dunes/Chairman of the Board of Newport Beach and Company, addressed the successes of the organization, Transient Occupancy Tax (TOT), and Board of Directors.

Debbie Snavelly, Past Chair of the Board of Directors and General Manager of the Marriott Hotel and Spa, commented on the importance of the work of Newport Beach and Company and Visit Newport Beach (VNB). She addressed the Tourism Business Improvement District (TBID), TOT revenue, benefits resulting from the efforts of VNB, the organization's finances, performance, and governance.

Gary Sherwin, President and CEO of Newport Beach and Company, provided a PowerPoint presentation to address their organizational structure, creation of the TBID, generation of TOT, self-assessment, distinctions between VNB and Newport Beach and Company, Destination Marketing Organizations (DMO) accreditation and certification, and contracting with other organizations.

In response to Mayor Pro Tem Dixon's question regarding key data points for Restaurant Week in 2014 compared to 2015, Mr. Sherwin stated that the 2014 program was outsourced to a San Diego company so that there is no comparison data available.

Mr. Sherwin addressed their in-house designer, creation of events in connection with other local groups, websites for the different sections of the City, new marketing enhancements in relation to the Christmas Boat Parade, possibilities for Marina Park, new sponsors, and the creation of a rich video content and future full-service TV studio. He presented a short video of their efforts during the last year.

Mr. Sherwin provided information regarding their digital marketing performance, performance of the industry, hotel overall revenue and sales performance, occupancy, Return on Investment (ROI), Newport Harbor impact study and their brand promise. He commented on the importance of lucrative, global marketing initiatives and showed another video on media coverage promoting Newport Beach.

In response to Mayor Pro Tem Dixon's questions, Mr. Sherwin reported that eight hotels are in the TBID, including every major hotel in the City except for Pelican Hill. He stated that the member hotels have no interest in growing the TBID further. Additionally, he commented on challenges with TV ratings, getting other content, and noted having educational programming for viewers to increase community engagement. He reported that the local channel has a lot of undeveloped potential and believed that the more local content that can be created, the more value can be added to the TV station.

Discussion followed regarding marketing to residents, possible new partnerships with the *Daily Pilot*, and developing new sponsorships.

In response to Mayor Pro Tem Dixon's request, Mr. Sherwin reported that many California cities are struggling with *Airbnb* because it has become a huge success and offers revenues that are non-tax-generating. He indicated that Council may need to enact a policy to address this. He stated that *Airbnb* should collect the taxes and forward them to the City instead of the homeowner. He added there is potentially millions of dollars in TOT that should benefit the City and believed that this is a fairness issue.

City Manager Kiff reported that he will include the matter as a City Council Policy A-6 item on the September 8, 2015 agenda.

Jim Mosher commented that the Conference and Visitors Bureau historically existed

without government involvement, referenced former Council Member Strauss' comments and objections when the agency asked that Council act as a collection agency for the hotel agency. He believed that the City probably sells itself and did not feel the effect would be great if the funding to Newport Beach and Company were to be cut off. He commented on the ROI, noting that he has not seen a check in the mail.

Denys Oberman expressed appreciation for VNB's mission and asked Council to consider maintaining a balance in preserving and promoting the brand, maintaining environmental access, balancing visitor-serving accommodations and the residential community, maintaining the quality of infrastructure, and maintaining mobility.

Linda Klein spoke in opposition to the TV station concept, noting the need to redevelop the Lido Peninsula area.

Laura Curran expressed concerns that there was no staff report or designated City staff providing the report, and believed that this item should have been pulled. She commented on the importance of data and noted the need for better financial reporting. She referenced Item 9 (Newport Beach & Company 2015/2016 Marketing Plan Addendum and Budget and the Newport Beach Tourism Business Improvement District Fiscal Year 2015-2016 Annual Report and Budget), adding that more context is required in the report and that it is not clear who is managing the relationship at the City for VNB. She indicated that the report should include complete information in order for residents to understand the services being provided. Additionally, she stated the need for clarification of the crossover between the TBID and TOT budget and backup in terms of revenue sources. She reported that the VNB report lacks information on expenses and asked that Council take a look at the budget and request detail.

SS5. Tree Policies: Proposed Revisions to City Council Policies G-1 (Retention or Removal of City Trees) and G-6 (Maintenance and Planting of Parkway Trees) [100-2015]

Municipal Operations Director Pisani provided the staff report. He addressed recommendations from the Parks, Beaches and Recreation (PB&R) Commission relative to City Council Policies G-1 and G-6. He explained the changes and actions suggested under each Policy.

Barry Allen read a letter from Debra Allen, President of the Harbor View Hills Community Association, regarding their tree trimming requirements, protecting resident views and reforestation efforts. Municipal Operations Director Pisani reported that none of the proposed changes will affect Ms. Allen's concerns.

Jim Mosher commented on the PB&R Commission's consideration of the matter. He referenced written comments that he submitted, thanked staff for incorporating some of his comments, but was unsure as to whether the Commission was in agreement. He expressed confusion over the terms "tree removals" and "reforestation," and addressed view protection, tree trimming, and the Street Tree list.

Laura Curran commended staff for considering a variety of trees for the Street Tree list. She expressed concerns with moving to a policy of only 36" trees versus 24" or 36" and noted that, in some situations, a smaller tree would be a better solution.

Denys Oberman commended staff for their work and indicated this is a good opportunity to create more diversity in the City and to encourage drought tolerant and native species.

City Manager Kiff reported that staff will bring the items back to Council during a Regular meeting.

III. PUBLIC COMMENTS - None

City Attorney Harp announced that the City Council will adjourn to Closed Session to discuss the items as listed in the Closed Session agenda and read the titles.

IV. CLOSED SESSION – 5:55 p.m.

A. CONFERENCE WITH LABOR NEGOTIATORS
(Government Code § 54957.6)

Agency Designated Representatives: Dave Kiff, City Manager, Carol Jacobs, Interim Assistant City Manager, Terri Cassidy, Deputy City Manager and Jonathan Holtzman, Labor Negotiator; Negotiators.

Employee Organizations: All Labor Associations: Association of Newport Beach Ocean Lifeguards (ANBOL); Newport Beach City Employees Association (NBCEA); Newport Beach Employees League (NBEL); Newport Beach Firefighters Association (NBFA); Newport Beach Fire Management Association (NBFMA); Newport Beach Lifeguard Management Association (NBLMA); Newport Beach Police Association (NBPA); Newport Beach Police Management Association (NBP.M.A); Newport Beach Professional and Technical Employee Association (NBPTEA); and Part-Time Employee Association of Newport Beach (PTEANB).

V. RECESS

VI. RECONVENED AT 7:00 P.M. FOR REGULAR MEETING

VII. ROLL CALL

Present: Council Member Peotter, Council Member Petros, Council Member Curry, Council Member Duffield, Council Member Muldoon, Mayor Pro Tem Dixon, Mayor Selich

VIII. CLOSED SESSION REPORT - None

IX. PLEDGE OF ALLEGIANCE - Council Member Muldoon

X. INVOCATION - Pastor Eric Heard, Mariners Church

XX. CURRENT BUSINESS (Item taken out of order at the request of the Mayor, pursuant to Council Policy A-6)

20. City Council Consideration of a Waiver of Council Policy A-6 which, if Approved, will Allow the City Council to Consider a Resolution of the City Council of the City of Newport Beach Censuring Council Member Scott Peotter and Disapproving of Comments Made by Council Member Peotter Related to Same-Sex Marriage in a Manner which Appeared to be the Official Position of the City of Newport Beach and Allow the City Council to Consider Referring Council Member Peotter to the Office of the District Attorney for the Alleged Improper Use of the Official Seal of the City of Newport Beach [100/2015]

Council Member Curry indicated this matter is not an effort to censor Council Member Peotter; and he had requested that language explicitly be inserted into the Resolution to reaffirm the

right of Council Member Peotter to speak on any issue, as an individual. He commented on valuing the Constitution and reported this is an issue of adherence to the laws of the State and the City, and fidelity to the oath of office taken by City officials. He referenced Newport Beach Municipal Code (NBMC), Section 1.16.050 and invited everyone to read it, listen to the evidence, and decide whether it was violated in letter or in spirit.

Council Member Curry believed that the action of using the City seal is illegal and alleged that Council Member Peotter has been warned by the press and the City Attorney, has recklessly disregarded the law, and used the seal on his email blast. He provided additional examples of the misuse of the City Seal, including one that prompted a concerned citizen to refer the matter to the District Attorney for enforcement. Council Member Curry stated that, at this point, a responsible and prudent public official would have stopped using the seal, however that was not the case and everything from that point forward was done with purpose, intention and full awareness that he was facing charges of illegality. He listed other dates in which Council Member Peotter issued emails which included the City seal and commented on his receipt of donations from people mostly having business before Council. He believed that Council Member Peotter did not want to stop using the seal because he was actively using it to raise campaign funds. Council Member Curry addressed Council Member Peotter's use of the seal to express his opinion on the Supreme Court's decision regarding gay marriage which, in turn, set off a firestorm in the community. He expressed the opinion that Council Members who believe they can ignore the law with impunity or that the law does not apply to them, cannot be tolerated.

Council Member Curry alleged that the substance of the email creates a hostile work environment and that it cannot be ignored because it has the potential for a lawsuit, the City has responsibilities as an employer, and this recklessly exposes all taxpayers in the City to potential costs. He addressed limits on speech in the workplace and noted that a hostile work environment creates a financial liability and makes it harder for employers, like the City, to recruit. Council Member Curry referenced the City's Employee Handbook and commented on the City's policies on anti-discrimination. He stressed that the worst consequences result when there are policies in place and they are not followed. Additionally, he addressed loss of tourist business, loss of revenue, and the diminishing of the City's national reputation. He noted that an article regarding the recent email incident appeared in England.

Council Member Curry stated that the Council has a responsibility to residents and visitors to ensure they feel safe and welcome in Newport Beach. He addressed a precedent set in 2003 and noted that the issue is not pleasant, but Council has a responsibility to act. He recommended passing the proposed Resolution so that the City and the position of the City is clear and unequivocal. He believed that a statement must be made that no one is above the law, that the City's anti-discrimination policies mean something, and the City is willing to enforce them. He indicated that this needs to be passed to reassure visitors and residents that the City is welcoming to all and because it is the right thing to do.

At Council Member Peotter's request, City Attorney Harp reported that, in the past, there have been issues raised regarding the City seal and noted that when the City seal is used in a photograph, as opposed to the actual City seal, there is ambiguity in the Code as to whether or not certain uses are prohibited in that manner. He stated that this is why the matter is being considered on tonight's agenda in order to look at the language and consider tightening it according to Council's intent.

Council Member Peotter referenced an exclusion in the City seal provision and asked whether Council is under that exclusion. City Attorney Harp stated that the City seal is supposed to be used for City-related purposes and that ambiguity arises when people do not use the official seal itself, but rather the seal is portrayed in the background of a photograph.

In response to Council Member Peotter's question, City Attorney Harp stated that a national issue does not fall within what the City considers "City business." He added that, as drafted, the ordinance is clear that if you use the City seal it is limited to City purposes, including the use of City services and providing an update on City projects. He indicated that the issue is if the City seal is used in a way that gives the impression that the opinion is one of the City's, as opposed to a personal opinion.

Council Member Peotter stated that just because a journalist/columnist publishes something about it, does not make it wrong, nor does it make it wrong if it is reported to the District Attorney's Office. He stated that he used a photograph of the City seal, along with the surrounding flags, in a montage with three other photos as a background in his banner and asserted that he does not believe it was in violation of the ordinance. He added that he agreed to remove the seal because it was being used as a wedge between Council colleagues and him. He believed that there is no clear illegality in this case, there is no need for a censure, and it was never his intent to imply that the City or Council colleagues shared his opinion. He added that he welcomes discussion on Item 15 [Amendment to Newport Beach Municipal Code Section 1.16.050 (Use of the Official Seal)] of the agenda to clarify the ordinance so that everyone has an understanding of the rules. Council Member Peotter indicated that probably every Council Member has used the seal on campaign literature, but pointed out that the difference in this case was his content. Regarding creating a hostile work environment, he noted that Council hires only three employees (City Clerk, City Attorney and City Manager), and does not supervise the entire City staff. He took issue that just because there are issues that Council Members may disagree with, it could potentially create a hostile work environment. He alleged that it is a smoke screen because Council Member Curry does not agree with him or his position, disagrees with the content of his email, and is upset because he ignored his advice regarding the use of the City seal.

Council Member Peotter commented on the loss of tourism business and believed that the real problem arises by the fact that this is the second meeting where the issue is being discussed and the loss of tourism business is being used to hide that Council Member Curry does not agree with him. He added that he does not have a problem with Council Member Curry not agreeing with him, but stated that he should not be censured because of the disagreement.

Paul Hoffman, Constitutional Law Attorney, expressed his support of gay and First Amendment rights, but is disturbed by the proposal to censure Council Member Peotter based on him speaking his opinion on a controversial issue. He believed that the specific Code section regarding the use of the City seal is vague, and pointed out that other issues addressed in the subject email. He added that it is not clear that Council Member Peotter can be prosecuted and alleged that this is something entirely different than the use of the City seal. He expressed the opinion that by voting to censure Council Member Peotter, Council is establishing a bad precedent in favor of censorship. He discussed the importance of free speech, defined censorship as punishing those who have a different opinion, and believed that a vote in favor of censoring is un-American and contrary to the U.S. Constitution.

Therese Louterback spoke in support of Council Member Peotter and First Amendment rights. She believed that, if this was truly a City seal problem, it could have been handled internally and wondered why it was not addressed from the very beginning. She alleged that

Council is not standing up for free speech. She suggested not censuring Council Member Peotter and working on clarifying the ordinance relative to the use of the City seal.

Bill Becker, President of Freedom X, took issue with the proposed Resolution and believed that the ordinance is vague. He referenced hostility towards LBGT people and noted that there is also discrimination against people of faith, alleging that Council Member Curry is violating

Council Member Peotter's religious rights. He indicated that Council Member Peotter never said anything discriminatory, but made statements questioning the validity of the interpretation of the Supreme Court decision and the use of the rainbow by the LGBT movement. He commented on Council Member Curry's employment, and added that it is hypocritical of him to condemn someone else's religious view point under a false pretext. Mr. Becker stated that, if Council adopts the proposed censure, the City can expect litigation. He asked that Council reconsider this matter.

Lori Morris spoke in support of the Resolution, noting that Council Member Peotter's entire tenure has been embarrassing. She thanked those who voted to consider this action, asked Council Members Duffield and Muldoon if they realize this matter has affected the City's business climate, and commented on damages she believes the City will sustain as a result of this. She commented on businesses donating to Council Member Peotter's campaign and assured that this is not a matter of free speech, but about following the laws of the City. She believed that Council Member Peotter was elected to do the City's business, but has failed. She reported on a previous meeting with him and was stunned by his comments.

Thomas Badin spoke in support of free speech and against censuring Council Member Peotter. He believed that Council Member Peotter is being sacrificed in the campaign to publicly ostracize anyone who opposes the Supreme Court's decision regarding same-sex marriage. He commented on the dissenting Justices and wondered if they would be censured by the City.

Cynthia Koller believed that this has nothing to do with freedom of speech, but is about character. She added that, as an elected official, there are consequences to one's actions. However, as an individual, he is free to say whatever he wants. She noted that, as a Council Member, Council Member Peotter was elected to represent the people, who are welcoming and non-discriminatory. She commented on his actions regarding issuance of ABC licenses and regarding excluding people from Costa Mesa to using the West Newport Community Center. She noted that Newport Beach is an inclusive City and stated that Council Member Peotter cannot represent only those he wants to, but represents all of the citizens of the City.

Wayne Harropson believed that two acts of terror have been perpetrated on the country by the Supreme Court, commented on the power of the education system in overturning the laws of nature and of nature's God, and on the President's change of mind regarding same-sex marriage.

Larry Smith praised Council for its work this year. He commented on the promises made by the Council Members elected in November and noted that they have worked to fulfill them and provided examples. He addressed Council Member Peotter's comments about the Supreme Court decision, the use of the rainbow, and the Resolution.

Paul Jensen believed that Council Member Peotter wrote nothing that was offensive, incorrect or improper. He spoke in opposition of City Council sitting in judgment of colleague's opinions and quoted Justice Scalia's dissenting comments on the Supreme Court decision on same-sex marriage.

Barbara Pisetsky, Director of Parents, Families and Friends of Lesbians and Gays (PFLAG) of the Southern Pacific Region, spoke in support of the proposed Resolution and in opposition to Council Member Peotter's use of the City seal. She believed that his comments hurt the City, residents and young people who struggle with their sexual orientation or gender identity. She urged a recall of Council Member Peotter and suggested that residents educate themselves.

Don Abrams noted that Council Member Peotter is entitled to his opinions, but promoting them is not the job of a Council Member. He listed important issues that the City must address,

stated that publishing personal opinions under the City seal is not the business of the Council, and urged him to resign.

Bill Pisetsky reported on a previous invitation to Council Member Peotter to attend a PFLAG meeting, but noted he did not attend. He again invited Council Member Peotter to broaden his view and attend an upcoming meeting. He noted that tonight's discussion is not a free-speech issue, but an issue about the use of the City seal and believed that violating it multiple times means that Council Member Peotter knows the intent of the City seal and has willingly violated it.

Andy Whallon believed that Council should back away from the debate of same-sex marriage and added that the City would be better-served if this matter were not approached in this way.

Bill Dunlap believed that there is ambiguity in the ordinance and recommended amending it. He asked Council Members Curry and Peotter to try to get along and run City business. He spoke in opposition of the Resolution to censure.

Richard Sungaila wondered what the rush is to censure Council Member Peotter. He addressed Council Policy A-6 and expressed concerns regarding future effects of censuring him and the potential cutting off of dialogue. He urged Council to allow free speech.

Steve Short spoke in support of free speech and of Council Member Peotter's ability to use the City seal. He stated that in his email, Council Member Peotter did not indicate that his opinion was the position of the City, and urged Council to oppose the Resolution to censure.

Ben Chapman expressed opposition of the Resolution to censure and spoke in support of Council Member Peotter. He stated that he has a right to speak his mind whether others agree with him or not.

Jeff LeTourneau commended Council Member Curry in summarizing the situation and the prior disregard Council Member Peotter has had with regards to following the City's rules. He noted that this country is not a Judeo-Christian country but rather was founded as a secular nation, and quoted comments from the Founding Fathers relative to religion. He believed that religious opinion has no place in government.

Dominica Crustasia believed that everyone should respect one another regardless of their beliefs and spoke in opposition to the Resolution for censure.

Ron Loutherbach urged Council to oppose the Resolution to censure.

Kevin O'Grady, Executive Director of the Orange County LGBT Center, addressed Council Member Peotter's comments regarding the LGBT community, spoke in support of the Resolution to censure, and commented on messages Council actions will send to residents and employees.

Lesley Miller noted that this is a situation that should be decided on the narrow grounds of whether or not the ordinance covers or does not cover the statements. She spoke in support of the Resolution to censure, in the absence of a resignation by Council Member Peotter. She stated that she does not wish that his distinct views color the community of Newport Beach.

Tom Pollitt believed that, if Council Member Peotter is censured, Council is infringing on his free speech and expressed concerns regarding the effects of Council's action on the City.

Nancy Skinner stated that this is not a free speech issue, but is about how the City will be seen by the global community. She spoke in support of the Resolution to censure and urged Council to think about the consequences of their comments in the future.

Mary Peikert commented on her practice, as a teacher, in dealing with unruly students. She stated that she felt entertained and irritated listening to comments tonight.

Jim Mosher took issue with the Resolution to censure. He stated that he would have recommended not waiving Council Policy A-6 and voting on whether to pursue the matter at a future meeting or not. He addressed alleged violations of the Municipal Code, the Employee Handbook and Code of Conduct and believed these are red herrings.

Motion by Council Member Curry, seconded by Council Member Petros, to waive Council Policy A-6 in order to consider a Resolution censuring Council Member Peotter and disapproving of comments made by Council Member Peotter related to same-sex marriage in a manner which appeared to be the official position of the City, and consider referring Council Member Peotter to the Office of the District Attorney for the alleged improper use of the official seal of the City.

City Attorney Harp clarified the action at this time relative to waiving Council Policy A-6.

Mayor Selich verified that the motion was to waive A-6 and referring the matter to the Office of the District Attorney.

The motion carried by the following roll call vote:

Ayes: Council Member Petros, Council Member Curry, Mayor Pro Tem Dixon, Mayor Selich
Nays: Council Member Peotter, Council Member Duffield, Council Member Muldoon

Council Member Curry thanked the public for their comments and participation and responded to some of the comments made. He noted that Council tried to respond to prior violations of the ordinance through a Study Session, there were citizens who took it upon themselves to refer to the District Attorney, and there were two articles in the newspaper about it, but none was effectual in persuading Council Member Peotter to stop. He indicated that, if he had stopped, this matter would have never been necessary. He commented on the attempt to create a loophole to violate the law and noted that no one can say that the law authorized political fundraising, endorse candidates in a partisan race or weigh in on Federal issues that are not City business. Council Member Curry noted that Council supervises itself in its adherence to City policy in terms of personnel management and non-discrimination, and they must be responsible for policing itself. He listed other violations for which Council Member Peotter is being investigated and stated that enough is enough and Council must take action. He emphasized that this is not about religion or freedom of speech, and noted that the Resolution reaffirms Council Member Peotter's right to free speech on any topic that he wishes to discuss as a private citizen.

Motion by Council Member Curry, seconded by Mayor Selich, to adopt Resolution No. 2015-68, *A Resolution of the City Council of the City of Newport Beach, California, Censuring Council Member Scott Peotter and Disapproving of Comments Made by Council Member Scott Peotter that were Critical of Same-Sex Marriage in a Manner which Appeared to be the Official Position of the City of Newport Beach Based, in part, on Council Member Scott Peotter's Improper Use of the City Seal and Requesting his Resignation if He is Unwilling or Unable to Abide by His Oath of Office.*

Mayor Pro Tem Dixon thanked residents for their participation. She noted that her first and utmost concern as a Council Member is what is best for Newport Beach residents. She reported that continuing on this path is dividing the City and tarnishing its reputation, and stated that it is time to move on and to do so tonight. She stated that she had hoped this matter would have been resolved at the prior meeting by adopting a Resolution that was a positive statement affirming the City's welcoming and inclusive attitude towards all and stated she believes that was the proper response by this Council. She commented on responsibilities as elected leaders, including protecting free speech and governing in a way that includes and respects all of the people of the City. She believed that Council Member Curry's Resolution fails in this matter adding that, although she disagrees with Council Member Peotter's email statements, he has a right to express his opinions without bringing an act of government down on him. Additionally, she expressed her belief that the Resolution of censure will not calm matters, but will inflame them. She expressed the opinion that it is appropriate to state that Council Member Peotter did not speak for the City or any Council Member and to reaffirm the City's commitment to be a welcoming and inclusive place.

Substitute Motion by Mayor Pro Tem Dixon, seconded by Council Member Petros, to adopt amended Resolution No. 2015-68, *A Resolution of the City Council of the City of Newport Beach, California, Disassociating Itself from Comments Made by Council Member Scott Peotter that were Critical of Same-Sex Marriage in a Manner which Appeared to be the Official Position of the City of Newport Beach Based, in part, on Council Member Scott Peotter's Use of the City Seal.*

In response to Council Member Petros' request, Mayor Pro Tem Dixon clarified her motion and detailed additional changes to remove Section 1.A, remove "of the City and was possibly a crime" in Section 1.B, remove "improper" and add "use of the official seal of the City and referencing himself as a Councilman in an email newsletter" in Section 1.C, remove the first paragraph in Section 2.A, amend the second paragraph in Section 2.A to read, "The City Council hereby disassociates itself from Council Member Scott Peotter's remarks...", remove Section 2.B, and remove Section 2.C.

Mayor Pro Tem Dixon recommended leaving the referral to the District Attorney in the Resolution.

At Council Member Curry's request, Mayor Pro Tem Dixon read the title to the Resolution as proposed in the Substitute Motion.

In response to Council Member Peotter's question, Mayor Pro Tem Dixon confirmed her request to delete Section 1.A.

City Attorney Harp confirmed her request to change "disapprove" to "disassociate" in Section 2.A.

City Attorney Harp suggested allowing him to make the requested modifications and bring the item back to Council towards the end of the meeting.

Council Members Muldoon and Duffield preferred to wait until the item returns to comment on the Substitute Motion.

Council Member Curry stated that he would be amenable to dropping the word "censuring" and leaving the word "disapproving". If colleagues agree with the change, he would be willing to drop the proposal to refer the matter to the Office of the District Attorney.

Council Member Peotter thanked those in attendance for their comments and expressed his wishes that this matter would have been resolved at the prior meeting. He alleged that Council Member Curry is trying to distract Council from City business. He added that no one who is reasonable would ever look at a photograph of the City seal and assume that it was representative of the entire City. He reasserted his belief that this has been a way to detract from Council Member Curry's disagreement of the content of his speech. He reiterated his dissension to the Supreme Court's decision and commented on the interference to his exercise of religion and freedom of speech. He added that he would fight for everyone's right to free speech and against the censure that anyone would propose against any of his Council colleagues. He indicated he will not support either scenario and encouraged his colleagues to do the same.

Council Member Petros indicated that he would be supportive of an action tonight.

Mayor Pro Tem Dixon stated her support of acting on the matter.

Mayor Selich stated that he would prefer a stronger statement, noting that it has been a painful subject, but that it is time to put it to bed. He expressed his support of the Substitute Motion.

Council Member Curry requested that the part of the motion to refer the matter to the Office of the District Attorney be withdrawn in the interest of time and considering the matter has already been referred to the District Attorney by a citizen. He noted the importance of passing a forceful Resolution expressing disapproval of Council Member Peotter's actions.

In order to allow the changes to be made in accordance to the Substitute Motion, Council proceeded with the Regular meeting and discussed Item 20 again following Item 15 discussions.

City Attorney Harp displayed the proposed amendments to ensure that all of Mayor Pro Tem Dixon's amendments were made.

Brief discussion followed regarding use of titles of Council Members in communications.

Council Member Peotter stated that, if this Resolution had any other Council colleague's name, he would not support the motion.

Council Member Curry explained he will vote in support of the motion as it does not contain anything in it that is objectionable.

Council Member Duffield expressed disappointment that this matter came back before Council. He stated that he is not a professional politician, but came to the City to work and do good things for it. He expressed a desire to move forward.

Council Member Muldoon spoke regarding government's role in protecting freedom of speech and believed that the City seal ordinance is ambiguous. He indicated that he will not support the motion.

The substitute motion carried by the following roll call vote:

Ayes: Council Member Petros, Council Member Curry, Mayor Pro Tem Dixon, Mayor Selich
Nays: Council Member Peotter, Council Member Duffield, Council Member Muldoon

XI. NOTICE TO THE PUBLIC

XII. CITY COUNCIL ANNOUNCEMENTS (NON-DISCUSSION ITEMS)

Council Member Curry addressed the expansion of the Ontario Airport and announced that Los Angeles Mayor Garcetti reached an agreement with officials in Ontario to turn jurisdiction of the Ontario Airport over to the people of Ontario. He indicated that this will benefit people interested in developing it and provide an alternative to people in north Orange County to fly from Ontario and relieve pressure on John Wayne Airport.

XIII. MATTERS WHICH COUNCIL MEMBERS HAVE ASKED TO BE PLACED ON A FUTURE AGENDA

- Shall the City Council discuss whether to pursue a Kindness Initiative as the City of Anaheim did (Curry)?
- Shall the City Council consider providing financial or other support, such as transit services, to accommodate the Sister Cities delegation from Antibes, France, in October 2015 (Curry)?
- Shall the City Council waive Council Policy A-6(C)(3) so that the City Council can consider the waiver of all privileges and any applicable exemptions under the Public Records Act to allow for the production of any and all confidential documents the City may possess that relate in any way to the newspaper articles concerning former Assistant City Manager Steve Badum at the City Council Meeting on September 8, 2015 (Muldoon)?

At Council Member Petros' request, Council Member Muldoon explained that he asked for this to be considered because of press coverage in the *Daily Pilot* last Friday regarding a former employee of the City. He expressed concern regarding comments that Council conspired to have him investigated and, therefore, requested to have this matter addressed for increased transparency to the public.

Motion by Council Member Peotter, seconded by Mayor Pro Tem Dixon, to direct staff to bring the items back for Council consideration at the September 8, 2015 City Council meeting.

The motion carried by the following roll call vote:

Ayes: Council Member Peotter, Council Member Petros, Council Member Curry, Council Member Duffield, Council Member Muldoon, Mayor Pro Tem Dixon, Mayor Selich

XIV. PUBLIC COMMENTS ON CONSENT CALENDAR

Regarding Item 5 (Summary of Vacation of Street Right-of-Way at 914 East Ocean Front), Jim Mosher believed that the public is not getting a good return for the public boardwalk that is being given away. He addressed Item 9 (Newport Beach & Company 2015/2016 Marketing Plan Addendum and Budget and the Newport Beach Tourism Business Improvement District Fiscal Year 2015-2016 Annual Report and Budget) and believed that there is a lack of transparency and noted problems brought forth earlier by Laura Curran. He commented on Newport Beach and Company being a private, outside vendor. He believed that there are other marketing organizations that could do more for less and commented on Gary Sherwin's salary. Additionally, he commented on Item 11 (Confirmation of Nominees to the Board of Library Trustees), and expressed concern regarding the application and appointment process.

Regarding Item 5, Payam Ataii noted that, in return for the public boardwalk, they are creating a public alley and are giving up 15 feet to only gain 8 feet. Further, the property will be enhanced and brought up-to-date.

Regarding Item 6 (Bike Lane Improvement Project – Notice of Completion and Acceptance of Contract No. 5653), Council Member Petros noted that they were funded 90% by grants.

XV. CONSENT CALENDAR

A. READING OF MINUTES AND ORDINANCES

1. Minutes for the July 28, 2015 Study Session and Regular Meeting [100-2015]

Waive reading of subject minutes, approve as amended, and order filed.

Council Member Curry abstained on this item since he did not attend the meeting.

2. Reading of Ordinances

Waive reading in full of all ordinances under consideration, and direct the City Clerk to read by title only.

B. RESOLUTIONS FOR ADOPTION

3. Resolution No. 2015-64: Adopting a Memorandum of Understanding with the Association of Newport Beach Ocean Lifeguards (C-2058) [38/100-2015]

Adopt Resolution No. 2015-64, *A Resolution of the City Council of the City of Newport Beach, California, Adopting the Memorandum of Understanding between the City of Newport Beach and the Association of Newport Beach Ocean Lifeguards for the period July 1, 2014 through June 30, 2017.*

4. Approve Resolution No. 2015-65: Amending Resolution No. 2013-10, the Key & Management Compensation Plan [100-2015]

Approve Resolution No. 2015-65, *A Resolution of the City Council of the City of Newport Beach, California, Amending the Key & Management Compensation Plan*, as follows:

- a) Retitle the Deputy Community Development Director to Deputy Community Development Director/Planning and set salary at \$11,098.53 - \$13,488.80 per month;
- b) Allocate the Building Manager/Chief Building Official within the Administrative Management subgroup (Deputy Director) with the title Deputy Community Development Director/Building and a salary of \$11,098.53 - \$13,488.80 per month; and
- c) Establish a policy to align cost-of-living adjustments and pension contributions for public safety chiefs (including Chiefs/Assistant Chiefs) equal to the adjustment and pension contributions of employees in the safety management bargaining units within their respective department.

Continued recommendation c to the September 8, 2015 Council City meeting.

5. Summary Vacation of Street Right-of-Way at 914 East Ocean Front [100-2015]

- a) Adopt Resolution No. 2015-66, *A Resolution of the City Council of the City of Newport Beach, California, Ordering the Summary Vacation and Abandonment of Street Right-of-Way (East Ocean Front) Adjacent to and Contiguous with 914 East Ocean Front (Lot 22, Block 14 of the Balboa Tract); and Directing the City Clerk to Record Same with the County Recorder's Office;*
- b) Direct staff to process the summary vacation of said right-of-way; and
- c) Direct the City Clerk to have the Resolution and summary vacation documents recorded by the Orange County Recorder.

C. CONTRACTS AND AGREEMENTS

- 6. Bike Lane Improvement Project - Notice of Completion and Acceptance of Contract No. 5653 (CAP14-0035) [38/100-2015]**
 - a) Accept the completed work and authorize the City Clerk to file a Notice of Completion for the project;
 - b) Authorize the City Clerk to release the Labor and Materials Bond 65 days after the Notice of Completion has been recorded in accordance with applicable portions of the Civil Code; and
 - c) Release the Faithful Performance Bond one year after acceptance by the City Council.
- 7. Sidewalk, Curb & Gutter Replacement 2014-2015 Project - Notice of Completion and Acceptance of Contract No. 5884 (CAP15-0012) [38/100-2015]**
 - a) Accept the completed work and authorize the City Clerk to file a Notice of Completion for the project;
 - b) Authorize the City Clerk to release the Labor and Materials Bond 65 days after the Notice of Completion has been recorded in accordance with applicable portions of the Civil Code; and
 - c) Release the Faithful Performance Bond one year after acceptance by the City Council.
- 8. School Resource Officer Program Agreement (C-3309) [38/100-2015]**

Approve the Agreement between the City of Newport Beach and the Newport-Mesa Unified School District to participate in the School Resource Officer Program ("Agreement"), and authorize the Mayor to execute the Agreement on behalf of the City.
- 9. Newport Beach & Company 2015/2016 Marketing Plan Addendum and Budget and the Newport Beach Tourism Business Improvement District Fiscal Year 2015-2016 Annual Report and Budget (C-4961) [38/100-2015]**
 - a) Receive and file VNB's 2015/2016 Biennial Marketing Plan Addendum;
 - b) Review, approve and/or modify VNB's FY 2015-2016 budget;
 - c) Review, approve and/or modify the FY 2015-2016 NBTBID's Annual Report; and
 - d) Review, approve and/or modify the NBTBID's FY 2015-2016 budget.

Council Member Duffield recused himself from this item since he does business with Newport Beach and Company.

D. MISCELLANEOUS

- 10. Planning Commission Agenda for the August 11, 2015 Meeting [100-2015]**

Receive and file.
- 11. Confirmation of Nominees to the Board of Library Trustees [100-2015]**

Confirm the nominations made by the Ad Hoc Appointments Committee to the Board of Library Trustees:

Board of Library Trustees [2 vacancies/minimum 4 nominees]
Gloria Alkire
Jill Johnson-Tucker (incumbent)
Janet Ray
David Sheffner
- 12. Budget Amendment to Accept a Check for \$11,364.00 from the Newport Beach Public Library Foundation and Appropriate Funds to the Library's Fiscal Year 2015/2016 Maintenance and Operation Budget [100-2015]**

Approve Budget Amendment No. 16BA-004 to increase revenue estimates by \$11,364.00 in Account 016051-0000-511085 (Library Foundation Donations) and to increase expenditure estimates amounts in Division 0106051 (Library Foundation Donations) and Division 01060604 (Literacy).

13. Acceptance of 2015/2016 State of California, Office of Traffic Safety DUI Enforcement, Awareness, and Traffic Safety Programs Grant #PT1631 [100-2015]

- a) Authorize the City Council to accept a \$363,740 Selective Traffic Enforcement Program ("STEP") award granted to the Newport Beach Police Department by the OTS per Council Policies F-3 and F-25. Therefore, to comply with Council Policy F-3, City Council must formally accept the award of \$363,740 and create a new appropriation to expend the money; and
- b) Approve Budget Amendment No. 16BA-003 increasing Police revenue estimates and expenditure appropriations by \$363,740.

Motion by Mayor Pro Tem Dixon, seconded by Council Member Petros, to approve the Consent Calendar; and noting Council Member Curry's abstention on Item 1, Council Member Duffield's recusal on Item 9, and the continuance of Item 4.c to the September 8, 2015, Council meeting.

The motion carried by the following roll call vote:

Ayes: Council Member Peotter, Council Member Petros, Council Member Curry, Council Member Duffield, Council Member Muldoon, Mayor Pro Tem Dixon, Mayor Selich

XVI. ITEMS REMOVED FROM THE CONSENT CALENDAR - None

XVII. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Steve Rosansky, President of the Newport Beach Chamber of Commerce, and Nancy Gardner, Newport Bay Conservancy, announced the Green on the Green Newport Beach Eco Expo event on

September 19, 2015, from 10:00 a.m. to 3:00 p.m., and listed activities during the event, as well as sponsors and organizations involved.

Thomas Badin requested that the City's Traffic Engineer consider increasing the yellow traffic light timing and the red light timing for all City intersections to decrease the number of intersection crashes.

XVIII. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

Council Member Petros provided an update on a recent Aviation Committee meeting and addressed issues discussed during the meeting. He invited residents to provide comments regarding possible flight path changes. Additionally, he commented on a desire by the Aviation Committee and the public to see if the City is willing to fund and conduct an additional Health Risk Assessment Study on the effects of air travel over Newport Beach. He referenced Council Policy A-17 (*Newport Beach City Council Airport Policy*) and requested investigating whether Council wants to create a policy to advocate for a particular departure strategy.

Mayor Selich provided an update on the recent Affordable Housing Task Force meeting and reported on projects considered during the meeting.

XIX. PUBLIC HEARING

14. Landscape Maintenance Code Amendments [100-2015]

Community Development Director Brandt provided the staff report and addressed details of the proposed amendments.

Mayor Selich opened the public hearing.

Jim Mosher suggested corrections to the Ordinance. City Attorney Harp indicated that he will have staff insert the missing language.

Hearing no further testimony, Mayor Selich closed the public hearing.

Motion by Council Member Petros, seconded by Council Member Curry, to a) find the project to be categorically exempt pursuant to Title 14, Chapter 3 (Guidelines for the California Environmental Quality Act) of the California Code of Regulations under Class 7. Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for the protection of the environment; b) introduce Ordinance No. 2015-25, *An Ordinance of the City Council of the City of Newport Beach, California, Approving Code Amendment No. CA 2015-007 and Amending Section 10.50.020 (Nuisance) of the Newport Beach Municipal Code (PA2015-108)*, and pass to second reading on September 8, 2015; and c) introduce Ordinance No. 2015-26, *An Ordinance of the City Council of the City of Newport Beach, California, Approving Code Amendment No. CA2015-007 and Amending Section 20.36.050 (General Landscape Standards of the Newport Beach Municipal Code) (PA2015-108)*, and pass to second reading on September 8, 2015.

The motion carried by the following roll call vote:

Ayes: Council Member Peotter, Council Member Petros, Council Member Curry, Council Member Duffield, Council Member Muldoon, Mayor Pro Tem Dixon, Mayor Selich

XX. CURRENT BUSINESS

15. Amendment to Newport Beach Municipal Code Section 1.16.050 (Use of the Official Seal) [100-2015]

City Attorney Harp provided a PowerPoint presentation to address the background, prior Council consideration and direction, and detailed the options for Council's approval.

Council Member Curry noted his preference for Option 1.

Motion by Council Member Curry, seconded by Council Member Petros, to introduce Ordinance No. 2015-27, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Newport Beach Municipal Code Section 1.16.050 Regarding the Use of the Official Seal of the City of Newport Beach*, and pass to second reading on September 8, 2015, as presented under Option 1 of the staff report.

Mayor Pro Tem Dixon believed that there needs to be increased specificity in terms of political prohibitions.

City Attorney Harp clarified Option 1 expresses that the seal cannot be used for political purposes.

Council Member Curry referenced the definition of "constituent services," noting that this would be a legitimate purpose.

Mayor Pro Tem Dixon suggested adding language used in Option 4 that states, "in support of or in opposition to any person seeking election..." Council Member Curry agreed to add the suggested language.

Council Member Muldoon believed that the original ordinance was vague, reported that he has never used the City seal, and expressed his support for a complete ban to avoid future problems such as the matter considered earlier in this agenda.

Council Member Peotter questioned the use of official seals by other legislative agencies and municipalities.

Mayor Selich concurred with adopting a complete ban on the use of the City seal.

Paul Jensen asked whether the City seal could be used on a proclamation to Liberty Baptist Church commending its policies on traditional marriage. He believed that the proposed Ordinance is ambiguous and unenforceable as written because anything could be thought of as a 'thank you' card.

Jim Mosher commented on the target audience to whom the rules would apply and suggested looking at ordinances from other cities as examples to follow. He expressed concerns with the inclusion of long, convoluted sentences, and believed that the City could do better in terms of writing its laws clearly. He wondered if this option would prohibit other organizations, such as those receiving City sponsorships, from using the City seal and whether lapel pins would be prohibited.

Larry Smith commented on the use of the City seal in proclamations in support of Christian Week.

Bill Becker, Freedom X, believed that the option appears vague if the City is going to disallow an individual to be photographed with the seal in the background and whether that allows for some level of infraction. He expressed the opinion that the ultimate objective is to prevent the use of the seal in a way that misleads the public and that more study is needed.

Thomas Badin questioned having a total ban on use of the seal and believed that its use should be allowed by true representatives of the City, even though they may be stating their own opinions.

City Attorney Harp restated the amended motion.

Amended motion by Council Member Curry, seconded by Council Member Petros, to introduce Ordinance No. 2015-27, *An Ordinance of the City Council of the City of Newport Beach, California, Amending Newport Beach Municipal Code Section 1.16.050 Regarding the Use of the Official Seal of the City of Newport Beach*, and pass to second reading on September 8, 2015, for a complete ban and adding, "including, but not limited to, the support of or in opposition to any person seeking an elected office or of any ballot measure" in Section 1.D.

Council Member Curry stated that he does not believe this would prohibit the presentation of proclamations and noted that the seal does not incorporate itself in proclamations, rather there is an embossed seal that can be left off if necessary.

In response to Council Member Muldoon, City Attorney Harp clarified the need for Council approval of proclamations setting forth the official policies of the City. City Manager Kiff discussed the process for approving proclamations.

The motion carried by the following roll call vote:

Ayes: Council Member Peotter, Council Member Petros, Council Member Curry, Council Member Duffield, Council Member Muldoon, Mayor Pro Tem Dixon, Mayor Selich

16. Review of City Council Policy A-12 (*Discretionary Grants*) [100-2015]

Council Member Peotter reported that the Council Discretionary Grant Account provides each Council Member \$6,000 to disburse as they please. He suggested eliminating Discretionary Grants.

Council Member Curry reported that the discretionary grants are an integral part of being able to be responsive to what is going on in the community and presented examples of their use. He added that it is part of Council's role to enhance the community and do things better.

Mayor Selich agreed with Council Member Curry's comments.

Jim Mosher believed that grants, as currently implemented, are wrong and expressed concerns that they place administrative power into the hands of elected officials who are not supposed to be administrative and are not supposed to have individual power. He also expressed concerns with lack of transparency.

Motion by Council Member Peotter to eliminate Council discretionary grants in their entirety.

In response to Council Member Muldoon's questions, City Manager Kiff reported that grants are subject to the Public Records Act. He added that it has a short turn-around time, there have been no complaints of abuse, and listed past recipients of these grants.

The motion died for lack of a second.

17. Fiscal Year 2015-2016 Special Event Support Funding Recommendations [100-2015]

Council Member Duffield recused himself on the two Visit Newport Beach items due to a business relationship.

Public Information Manager Finnigan addressed Newport Beach Restaurant Week, the Newport Beach Film Festival, the Newport Beach Christmas Boat Parade, Newport Beach Wine and Food Festival, the Newport to Ensenada Yacht Race and the Balboa Village Festival.

Stefanie Salem, Founder of the Newport Beach Food and Wine Festival, thanked the City for its support, commented on the upcoming event on October 3rd and 4th at the Civic Center, and addressed the Festival beneficiary, Project Hope Alliance. She provided information regarding the company's future goal of turning this into a global destination event. She addressed media coverage, sponsors, and the need for additional financial support. She requested that the City grant the entire request of \$35,000. She reported on City fees, noted that nearly 70% of the requested amount will be returned to the City, and believed that the remaining \$11,000 will directly benefit the City.

City Attorney Harp reported that Council Member Duffield decided to recuse himself from the entire matter.

Jim Mosher commented on the need for additional information and believed that it should be disclosed in the staff report for public inspection. He stated that he has a problem with the entire item since there are events in the City that have never had City support and get along fine, as well as other events that received help in the past but not currently, and have not left the City. Additionally, he commented on tickets given out to decision makers who decide in the organizations' favor and questioned the City's sponsorship of the Wine and Food Festival and various merchants associations.

Carmen Smith, President of Newport Beach Arts Foundation, spoke in support of waiving City fees and City site rental fees for the Art in the Park event on October 10th at the Civic Green. She commented on the work of the Foundation and thanked Council for its support.

Council Member Petros thanked Council Member Peotter for his work on this item.

Mayor Pro Tem Dixon thanked Council Members Peotter and Petros for their work. She commented on the importance of the Food and Wine Festival becoming a non-profit organization.

Public Information Manager Finnigan summarized the recommendation to waive City fees associated with Art in the Park and increase the grant to the Food and Wine Festival to \$35,000.

At Council Member Peotter's request, Public Information Manager Finnigan explained the original amount allocated to the Food and Wine Festival.

Council Member Peotter suggested granting the Food and Wine Festival \$20,000 instead of \$35,000.

Motion by Council Member Curry, seconded by Mayor Pro Tem Dixon, to a) approve the amended Special Event Support recommendations for Fiscal Year 2015-2016; b) authorize staff to execute grant agreements with each Signature Event organizer; c) approve the transfer of \$35,000 from 0110-8250 to 0340-8250; d) approve waiving the Special Event Permit Fees and any City site rental fees for the Art in the Park event and the Bunnies & Books Kids Festival; e) approve changes to the FY 2016-2017 Special Event Program as detailed in the staff report; f) approve a one-time waiver of the eligibility requirements and a \$35,000 Signature Event grant for the Newport Beach Wine & Food Festival; g) authorize staff to proceed with providing up to \$20,000 in City support for the Balboa Island Centennial, to be drawn from the City Council's approved budget allocations (no net budget change); and h) authorize staff to proceed with providing up to \$7,500 in City support for the Balboa Village Merchants Association, to be drawn from the approved budget allocations for Economic Development (no net budget change). The motion carried by the following roll call vote:

Ayes: Council Member Peotter, Council Member Petros, Council Member Curry, Council Member Muldoon, Mayor Pro Tem Dixon, Mayor Selich

**18. Approval of a Transfer Agreement for the 2014 Homeland Security Grant) (C-6235)
[38/100-2015]**

City Manager Kiff introduced the item.

Motion by Council Member Peotter, seconded by Council Member Curry, to authorize the Fire Chief to act as the "Authorized Agent" to execute for, and on behalf of, the City any actions necessary to implement the Transfer Agreement and obtain training material and equipment provided by the California Office of Emergency Services and the State Homeland Security Grant Program (SHSGP) through the Orange County Sheriff-Coroner's Department. The motion carried by the following roll call vote:

Ayes: Council Member Peotter, Council Member Petros, Council Member Curry, Council Member Duffield, Council Member Muldoon, Mayor Pro Tem Dixon, Mayor Selich

19. Amend Resolution No. 84-38 Regarding the Vacation of Ticonderoga Street [100-2015]

Motion by Council Member Peotter, seconded by Council Member Curry, to a) adopt Resolution No. 2015-67, *A Resolution of the City Council of the City of Newport Beach, California, Amending Resolution No. 84-38 Regarding the Vacation of Ticonderoga Street and Directing the City Clerk to Record the Resolution with the Orange County Recorder;* and b) authorize the City Manager to execute an amendment to the agreement for Ticonderoga Street dated September 19, 1984 between the City and the Newport Crest Homeowners Association consistent with Resolution No. 2015-67.

Jenny Lombardi thanked Council Member Petros for bringing the item forward and noted that Newport Crest supports this agreement.

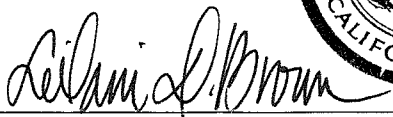
The motion carried by the following roll call vote:

Ayes: Council Member Peotter, Council Member Petros, Council Member Curry, Council Member Duffield, Council Member Muldoon, Mayor Pro Tem Dixon, Mayor Selich

XXI. MOTION FOR RECONSIDERATION - None

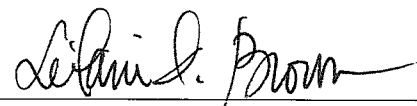
XXII. ADJOURNMENT - Adjourned at 10:24 p.m. in memory of Lynn Henn

The agenda for the Regular Meeting was posted on the City's website and on the City Hall Electronic Bulletin Board located in the entrance of the City Council Chambers at 100 Civic Center Drive on August 6, 2015, at 4:00 p.m. The amended agenda for the Regular Meeting was posted on the City's website and on the City Hall Electronic Bulletin Board located in the entrance of the City Council Chambers at 100 Civic Center Drive on August 7, 2015, at 2:00 p.m.

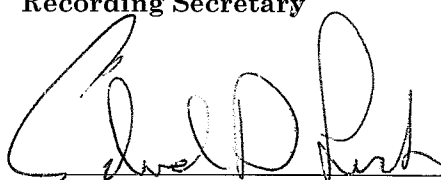


City Clerk





Recording Secretary



Mayor